

Senator Finlay proposed to amend, under the head of Land Office, as follows: "*Provided*, that only fifteen clerks and nine draughtsmen shall be employed in the Land Office at any one time."

Pending the consideration of the amendment, on motion of Senator Finlay, the Senate adjourned to 9 o'clock A. M. to-morrow.

SENATE CHAMBER,
AUSTIN, TEXAS, May 23, 1873.

Senate met pursuant to adjournment. Roll called; quorum present.

Absent—Senators Flanagan and Saylor.

Prayer by the Rev. Mr. Lovejoy.

On motion of Senator Franks, the reading of the journal of yesterday was dispensed with.

Senator Dillard, chairman of the Committee on Retrenchment and Reform, submitted the following report:
Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Retrenchment and Reform, to whom was referred the consideration of Senate bill No. 80, entitled "An act to provide for payment of sheriffs for guards employed in conveying prisoners to the Penitentiary of the State," and the Governor's veto of said bill, have had the same under consideration, and beg leave to report that in their opinion the reasons urged by his Excellency the Governor against the passage of said bill are well founded, as your committee are informed by Senator E. T. Randle, a former superintendent of the Penitentiary, that sheriffs frequently claimed pay for guards not actually employed by them.

Your committee would therefore recommend the passage of another act which will better protect the Treasury of the State against such frauds, which will perhaps obviate the objections urged by the Governor to the bill vetoed by him.

In accordance with these views, your committee would respectfully beg leave to report the accompanying bill and recommend its passage.

J. E. DILLARD, Chairman.

Senator Pyle, chairman of the Committee on Contingent Expenses, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Contingent Expenses, to whom was referred House bill No. 913, to be entitled "An act making an appropriation to defray the contingent expenses of the first session of the Thirteenth Legislature of the State of Texas," have carefully considered the same and respectfully recommend that it do pass.

W. H. PYLE, Chairman.

Senator Broughton, chairman of the Committee on Penitentiary, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Penitentiary, to whom was referred Senate bill No. 362, "An act to authorize the lessees of the State Penitentiary to delay the payment of certain amounts of money to become due the State until the expiration of their lease," have carefully considered the same and respectfully recommend that it do pass.

E. T. BROUGHTON, Chairman.

Senator Dohoney, chairman of the Committee on Education, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Education, to whom was referred House bill No. 919, to be entitled "An act to appropriate three hundred dollars to buy postage stamps for the office of Superintendent of Public Instruction," have had the same under consideration, and instruct me to report the same back and recommend its passage.

E. L. DOHONEY, Chairman.

On motion of Senator Dohoney, Senate bill No. 30, "An act to incorporate the Sherman, Wichita and Pan Handle Railway, and to grant land to aid in the construction thereof," with amendments by the House, was taken up, and the Senate concurred in the amendments.

Senator Finlay, chairman of Judiciary Committee No. 2, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 833, to be entitled "An act making provisions for trial of all State officers not provided for in the Constitution," having considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was

referred Senate bill No. 127, to be entitled "An act to amend the twenty-second section of an act entitled an act prescribing the times of holding the district courts in the several judicial districts," have considered the same, and I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 120, to be entitled "An act to amend the twenty-ninth section of an act entitled an act prescribing the time of holding the district courts in the several judicial districts in the State," have considered the same, and I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 904, to be entitled "An act to amend section eight of an act entitled an act to incorporate the town of Seguin, in Guadalupe county," having carefully considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 902, to be entitled "An act to amend section one of an act entitled an act to amend the thirty-fourth and thirty-sixth sections of an act entitled an act prescribing the times of holding the district courts in the several judicial districts in the State, approved August 10, 1870, approved February 6, 1871," having considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman.

Senator Finlay, chairman *pro tem.* of the Committee on State Affairs, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 892, to be entitled "An act to incorporate the town of McKinney, in Collin county," having considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman *pro tem.*

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 848, to be entitled "An act to provide for the investigation of fires in certain cases," have considered the same, and I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman *pro tem*.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 907, to be entitled "An act supplementary to and amendatory of an act passed April 19, 1873, entitled an act to reorganize the town of Sherman, in Grayson county, and incorporate said town as the city of Sherman," having considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman *pro tem*.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 901, to be entitled "An act to incorporate the towns of Farmersville, Plano and Weston, in Collin county, have considered the same, and I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman, *pro tem*.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 603, to be entitled "An act to incorporate the town of Honey Grove, in the county of Fannin," having considered the same, I am instructed to report it back and recommend its passage, with the accompanying amendments.

GEO. P. FINLAY, Chairman, *pro tem*.

Amend section five, line two, by striking out the word "poll."

Amend same section, lines eight and nine, by striking out the words, "and no poll tax to exceed two and one-half dollars."

Amend section nine by striking out all after the word "jurisdiction," in line fourteen, down to and including the word "peace," in line sixteen.

Senator Pyle submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred Senate bill No. 287, "An act to incorporate the Lake City Navigation Company, and to aid

in the improvement of the navigation of Big Cypress Bayou," have carefully considered the same and respectfully recommend that it do pass.

W. H. PYLE, for Committee.

Senator Avinger, chairman of the Committee on Counties and County Boundaries, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 792, a bill to be entitled "An act to organize the county of McMullen," have had the same under consideration, and instruct me to report it back and recommend that it do pass.

H. J. AVINGER, Chairman.

Senator Ball submitted the following report:

Hon. E. B. Pickett, President of the Senate, and Hon. M. D. K. Taylor, Speaker of the House of Representatives:

SIRS: The joint committee of the Senate and House of Representatives, to whom was referred House bill No. 778, "An act to regulate the fees and charges of the General Land Office," have had the same under consideration, and instruct us to report the same back and recommend its passage with the accompanying amendments.

A. J. BALL,

Chairman Senate Committee.

S. POWERS,

Chairman House Committee.

Amend first section by adding after the words "seven dollars," the following: "To be collected for each legal division as herein classified."

Amend first section by adding after the words "twenty dollars," the following: "And for each additional league, or fraction of a league, twenty dollars."

Senator Flanagan, chairman of the Committee on Internal Improvements, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred Senate bill No. 333, having carefully considered the same, I am instructed to report it back and recommend its passage.

WEBSTER FLANAGAN, Chairman.

Senator Fountain offered the following concurrent resolution, which was adopted:

WHEREAS, Reliable information has been received that General Ronald McKenzie, of the United States Army, with the troops under his command, did, on the nineteenth day of May, 1873, cross the Rio Grande into the Republic of Mexico, and inflict summary punishment upon a band of Kickapoo Indians, who, harbored and fostered by the Mexican authorities, have for years past been waging a predatory warfare upon the frontier of Texas, murdering our citizens, conveying their children into captivity, and plundering their property; therefore,

Resolved by the Senate of the State of Texas, the House concurring, That the grateful thanks of the people of our State, and particularly the citizens of our frontier, are due to General McKenzie and the troops under his command for their prompt action and gallant conduct in inflicting well merited punishment upon these scourges of our frontier.

Resolved, That his Excellency the Governor be and he is hereby requested to forward a copy of these resolutions to Gen. McKenzie and the officers and troops under his command.

Senator Cole moved to reconsider the vote taken yesterday by which the Senate refused to pass the election bill to a third reading.

Senator Franks moved a call of the Senate.

Absent—Senator Saylor.

On motion of Senator Dillard, the rules were suspended to take up out of its order a bill reported to the Senate by the Committee on Retrenchment and Reform, viz., "An act to provide for the payment of sheriffs for guards employed in conveying persons to the penitentiary of the State." The bill was read second time.

Senator Franks proposed to amend by striking out the words "at least two respectable persons" in line twenty-four, and insert "the person conveying said prisoners." Adopted.

The bill was then ordered engrossed by the following vote :

Yeas—Senators Avinger, Ball, Dillard, Evans, Ford, Finlay, Fountain, Franks, Gaines, Hall, King, Latimer, Pyle, Rawson, Randle, Saylor, Sayers, Shelley, Swift, Tendick, Word and Mr. President—21.

Nays—Senators Flanagan, Henry and Tracy—3.

Not voting—Senators Baker, Broughton, Dohoney, Ruby and Saylor.

Rules were further suspended, the bill read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Cole, Dillard, Ford, Finlay, Fountain, Franks, Hall, King, Latimer, Pyle, Rawson, Sayers, Shelley, Tendick, Word and Mr. President—18.

Nays—Senators Dohoney, Evans, Flanagan, Henry, Swift and Word—6.

By leave Senator Flanagan, chairman of the Committee on Internal Improvements, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: A majority of your Committee on Internal Improvements, to whom was referred House bill No. 712, a bill to be entitled "An act granting lands to the International Railroad," have had the same under consideration and beg leave to make the following report:

By the act of incorporation of the International Railroad Company, passed August 3, 1870, the State of Texas obligated itself to donate to said company the bonds of the State to the extent and amount of ten thousand dollars per mile for each mile of said railroad constructed under this charter. The said railroad company have fully complied with all the conditions of said charter, and have constructed their road in the manner required by the act of incorporation. Over six millions of dollars have been invested by the company in constructing a first class road, one equal to any road in the United States, relying implicitly on the good faith of the State to comply with its promised aid. The company has a vested right; the State is bound by the contract the same as an individual would be under like circumstances. The Supreme Court of the United States, in deciding the El Paso case, say: "That the act of incorporation, and the land grant here in question, were contracts, is too well settled in this court to require decision. The ordinances of 1869, and the Constitution adopted in that year, in so far as they concern the question under consideration, are nullities, and may be laid out of view."

The liability of the State to issue bonds as provided in the charter of the International Railroad Company, is settled beyond a question in the same decision of the Supreme Court of the United States in the case of *Olcote v. The County Board of Supervisors of Fon du Lac county, Missouri*, where they say, "None contends that the power

of a State to tax, or to authorize taxation, is not limited by the uses to which the proceeds may be devoted. Undoubtedly taxes may not be laid for a private use. But is the construction of a railroad by a company incorporated by a State for the purpose of building it, and endowed with the State's rights of eminent domain, a thing in which the State has, as such, no interest?

* * * * *

"That railroads, though constructed by private corporations and owned by them, are public highways, has been the doctrine of nearly all the courts ever since such conveniences for passage and transportation have had any existence.

* * * * *

"And the reason why the use has always been held a public one is that such a road is a highway, whether made by the government itself or by their power to construct it from legislative grant. It would be useless to cite the numerous decisions to this effect which have been made in the State courts."

Under these decisions there is no question as to the liability of the State to the International Railroad Company to pay ten thousand dollars per mile in bonds on all its road now built or that it shall build within the time specified, from the eastern line of the State, opposite the town of Fulton, in Arkansas, to the Rio Grande, at or near Laredo.

While your committee are satisfied that such are the legal rights of said company; and even if it was questionable, good faith on the part of the State would require the payment; yet, as the company, by their authorized agent, expresses a willingness to accept bonds from Jefferson to San Antonio, and twenty sections of land to the mile for the remainder of their line, thereby relieving the State of a debt of near three millions of dollars, your committee regard such an arrangement or settlement as highly advantageous to the State, and therefore report the accompanying substitute and recommend its passage.

WEBSTER FLANAGAN,

THOS. H. BAKER,

J. G. TRACY,

W. H. PYLE,

D. W. COLE,

W. A. SAYLOR.

Senator Dohoney then submitted the following minority report :

Hon. E. B. Pickett, President of the Senate :

SIR: A majority of your Committee on Internal Improvements, to whom was referred House bill No. 712, A bill to be entitled "An act granting lands to the International Railroad," having reported a substitute therefor and recommended its passage, the undersigned members of said committee dissenting therefrom, submit the following minority report, to-wit :

Without expressing any opinion as to the constitutionality or legal validity of the act of the Legislature, by which the International Railroad Company was chartered and subsidized, we leave these questions to the courts, which now have cognizance of them, and where they properly belong.

And without reference to what the decisions of the courts may be as to the power of the Legislature to tax the people of the whole State, for the purpose of making donations to individuals or corporations, we are clearly of opinion that such legislation is unjust and unequal in its effects on the people, and is really outside the legitimate bounds of proper legislation.

As, however, this grant to the International Railroad Company has been made under a formal act of the Legislature (whether rightfully or wrongfully we will not now discuss), and as capitalists acting in good faith have invested their money, and have constructed a portion of said railroad, we are of opinion that if the company wishes to submit a compromise of the matters involved between it and the State in reference to the issuance of the bonds, in the form of a supplemental act, that it would be right to allow the company the bonds, on the road already actually constructed, according to the terms of the original grant ; and lands on the remainder of the line, in lieu of the bonds. Further than this we are not willing to go, even in a matter of compromise, because we are opposed to money subsidies, and to taxing the whole people, for the benefit of a railroad company, and the few people who may reside immediately on the line of such road. We therefore respectfully recommend that both the House bill and the substitute reported by the majority of the Senate committee be indefinitely postponed.

E. L. DOHONEY,
H. J. AVINGER.

By leave Senator Flanagan submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred Senate bill No. 244, "An act to incorporate the Austin and Pacific Short Line Railroad Company," having carefully examined the same, instruct me to report it back and recommend that it do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 574, to be entitled "An act in relation to the Corpus Christi Ship Canal," having duly examined the same, I am instructed to report it back and recommend its passage.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 66, entitled "An act to amend an act to incorporate the Dallas and Wichita Railroad Company, and to aid in the construction thereof, having carefully considered the same, instruct me to report it back and recommend that it do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 599, having duly considered the same, I am instructed to report it back and recommend its passage.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your committee to whom was referred House bill No. 474, "An act to incorporate the Belton and Northwestern Railroad Company," having carefully considered the same, instruct me to report it back and to recommend that it do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your committee to whom was referred House bill No. 291, "An act to incorporate the Gulf, Colorado and Santa Fé Railroad Company," having at various sessions carefully considered the same, instruct me to report it back to this honorable body, and to recommend that the same do not pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 383, "An act to be entitled an act to incorporate the Beaumont, Corsicana and Fort Worth Railroad Company," having carefully considered the same, instruct me to report it back and to recommend that the same do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 111, "An act to incorporate the Dallas and Palestine Railroad Company," having duly examined and well considered the same, recommend that the names of Green J. Clark and George D. Manion, of Kaufman county, be inserted as incorporators, and that the bill thus amended do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 483, "An act to aid in the construction of the Gulf, West Texas and Pacific Railroad," having carefully considered the same, instruct me to report it back with the accompanying amendments and recommend its passage.

WEBSTER FLANAGAN, Chairman.

Amend section one by striking out the word "railroad" where it occurs in line two, and inserting in lieu of it the word "railway."

Amend same section by striking out the word "hereafter" where it occurs in line five, and inserting at the end of this section the following, viz.: "*And provided further, that said company shall not be entitled to any land from the State for such part of its road as either it or either of the companies of which it is the successor has already received sixteen sections of land per mile from the State; nor shall this company in any manner receive more than sixteen sections of land per mile from the State.*"

Amend section two by inserting after the word "company," in line nineteen, the words "or its assigns," and striking out the balance of the section.

Amend section three by inserting after the word "act," where it occurs in line seven, the following: "*Provided, that if said company shall fail to build ten miles every*"

four months, as herein required, but shall nevertheless build thirty miles consecutively in twelve months, in that case the company shall be entitled to said sixteen sections of land per mile on each thirty miles so built per annum."

Amend section three by striking out the word "May" in line four, and inserting in its place the word "July."

Amend this section further by striking out all after the word "San Antonio" in line eight, to the end of section, and inserting the following, viz.: "And its other line of road by the town of Lockhart; and establish and continue depots within one-half mile of the existing court houses in said towns; *provided*, said towns, or the inhabitants thereof, shall furnish free to said company sufficient land for depot purposes, switches and turnouts, and the right of way for the road where it passes through said towns; and said company may connect its eastern line of railway with the International Railroad, or with any other railroad running or intended to run between Austin and San Antonio; and may extend a railway from Seguin, or some point west of Seguin, to New Braunfels, in Comal county, and may make its connection with the Texas and Pacific Railway by either of its lines; *provided*, there shall be no depot west of the Guadalupe river, for said line, to New Braunfels, except at that place; but said road shall have its depot at Seguin."

Amend section four by striking out the words "six, eight, ten and twelve" where they occur in said section, and inserting in lieu thereof the words "eight, twelve, sixteen and twenty."

Amend section five by striking out same, and inserting the following substitute, viz.: "SEC. 5. That said company shall be subject to such general laws as now exist, or may hereafter be enacted and enforced, regulating all railroads in this State; and shall never sell, lease or give control of said railway, or the franchises thereof, to any company owning any parallel or competing railway; *provided*, that this provision is not intended in any way to affect the force or validity of any mortgage or deed of trust executed pursuant to the charter of the company. And said company shall not purchase, or lease, or obtain control of any parallel or competing railway, under penalty of forfeiting the rights and privileges herein granted."

The Senate being full, the motion offered by Senator Cole, on which a call of the Senate was ordered to recon-

sider the vote by which the Senate refused to pass the election bill to a third reading, was taken up.

Senator Rawson moved to lay the motion on the table. Lost by the following vote:

Yeas—Senators Ford, Fountain, Gaines, Hall, Rawson and Tracy—6.

Nays—Senators Avinger, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Franks, Henry, King, Latimer, Pyle, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Word and Mr. President—23.

The question recurring on the adoption of the motion offered by Senator Cole, the same was put and carried by the following vote:

Yeas—Senators Avinger, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Franks, Henry, King, Latimer, Pyle, Saylor, Sayers, Shelley, Swift, Word and Mr. President—20.

Nays—Senators Baker, Ford, Fountain, Gaines, Hall, Rawson, Randle, Ruby, Tendick and Tracy—10.

The bill then passed to a third reading by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Fountain, Franks, Henry, King, Latimer, Pyle, Randle, Sayers, Shelley, Swift, Tendick, Word and Mr. President—23.

Nays—Senators Ford, Gaines, Hall, Rawson, Ruby, Saylor and Tracy—7.

Senator Cole then moved to suspend the rules, and that the bill be read third time. Carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Franks, Gaines, Henry, King, Latimer, Pyle, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Word and Mr. President—25.

Nays—Senators Fountain, Hall, Rawson and Tracy—4.

Not voting—Senator Ford.

The bill was then read third time and passed.

Senator Cole moved to reconsider the vote just taken on the passage of the election bill, and to lay that motion on the table. Carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Henry, King, Latimer, Randle, Saylor, Sayers, Shelley, Swift, Tendick, Tracy, Word and Mr. President—22.

Nays—Senators Ford, Fountain, Gaines, Hall, Rawson and Ruby—6.

Not voting—Senators Franks and Pyle.

By leave Senator Dohoney, chairman of the Committee on Education, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Education, to whom was referred Senate bill No. 86, to amend "An act to provide for the establishment of the Agricultural and Mechanical College," approved April 17, 1871, have had the same under careful consideration, and instruct me to report the same back with the accompanying substitute, and recommend the passage of the substitute.

E. L. DOHONEY, Chairman.

Senator Shelley in the chair.

On motion of Senator Finlay the rules were suspended to take up out of its order House bill No. 483. "An act to aid in the construction of the railroad of the Gulf, Western Texas and Pacific Railroad Company."

The bill was read second time, and the report of the committee, recommending amendments, adopted. The bill then passed to a third reading; and on motion of Senator Finlay the rules were further suspended, the bill read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Dillard, Dohoney, Ford, Finlay, Fountain, Franks, Hall, Henry, King, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tracy, Word and Mr. President—25.

Not voting—Senators Cole, Evans, Flanagan, Gaines and Tendick.

On motion of Senator Pyle the rules were suspended to take up House bill No. 111, "An act to incorporate the Dallas, Palestine and Southeast Texas Railroad Company."

The bill was read second time, and the report of the committee recommending amendments adopted.

The hour having arrived for the special order, viz., the general appropriation bill, on motion of Senator Pyle the same was postponed until the pending business was disposed of.

The bill then passed to a third reading, and on motion of Senator Pyle, the rules were further suspended, the

bill read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Fountain, Franks, Gaines, Hall, Henry, King, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—26.

Not voting—Senators Ford, Finlay, Flanagan and Mr. President.

The hour having arrived for the special order, on motion of Senator Broughton the same was postponed to take up Senate bill No. 227, "An act requiring the Treasurer of the State to receive all payments due on all notes given for purchases of university lands sold under the provisions of an act for the disposition and sale of the university lands, approved August 30, 1856, and an act amendatory thereof, approved November 6, 1866, and to require the Commissioner of the General Land Office to issue patents on said lands."

The bill was read second time and ordered engrossed; rules suspended, read third time and passed.

Senator King moved a further postponement of the special order. Carried.

On motion of Senator King, House bill No. 712, "An act granting lands to the International Railroad," was taken up, one hundred copies ordered printed, and made special order for to-morrow at 11 o'clock A. M.

Senator Evans then moved a further postponement of the special order, and a suspension of the rules to take up House bill No. 934, "An act to provide for a special election in the city of Dallas." Carried.

The bill was read first time; rules suspended, read second time and passed to a third reading.

On motion of Senator Evans, the rules were further suspended, the bill read a third time and passed.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 837, "An act to incorporate the San Marcos, Guadalupe and Galveston Canal Company."

House bill No. 934, "An act to provide for a special election in the city of Dallas."

House bill No. 927, "An act to provide for the safe keeping and protection of the State House, or so much thereof as may include the public halls, the committee

rooms used by the members of the Legislature, and all the furniture and fixtures belonging to the same, and all the books, maps, charts and papers belonging to or appertaining to the library of the State.

Also, Senate bill No. 218, "An act to establish and maintain a system of public free schools in the State of Texas," by a two-thirds vote, notwithstanding the objections urged by his Excellency the Governor to the same.

A message was received from the House informing the Senate that the House had concurred in the second amendment of the Senate to House bill No. 48, "An act to regulate juries."

Senator Flanagan moved that the Senate recede from its first amendment.

Senator Tracy moved a call of the Senate. Call sustained.

Absent—Senators Broughton and Hall.

Senator Tendick offered the following resolution, which was adopted:

WHEREAS, The Hon. J. W. Flanagan, our able and respected representative in the United States Senate is now at the State Capital; therefore, be it

Resolved by the Senate of the State of Texas, That the President of this body be and is hereby authorized to cordially extend in its name an invitation to the Hon. J. W. Flanagan to address the members of the Legislature and the public generally, in the Senate Chamber, on some evening that he may designate during the present week.

Senator Dillard moved to postpone the special order until 4 o'clock P. M.

Senator Gaines moved to lay the motion on the table. Lost by the following vote:

Yeas—Senators Avinger, Baker, Ford, Fountain, Gaines, Pyle, Rawson, Randle, Shelley, Tendick and Tracy—11.

Nays—Senators Ball, Dillard, Dohoney, Finlay, Flanagan, Henry, King, Saylor, Sayers and Word—11.

Not voting—Senators Broughton, Cole, Hall, Latimer, Ruby, Swift and Mr. President.

Senator Finlay moved a call of the Senate. Call sustained.

Absent—Senator Hall.

On motion of Senator Dohoney, the rules were suspended to take up House bill No. 603, "An act to incor-

porate the town of Honey Grove, in the county of Fannin."

The bill was read second time, and the report of the committee recommending amendments adopted.

The bill then passed to a third reading, and on motion of Senator Dohoney the rules were further suspended, the bill read third time and passed.

Senator Ruby moved to suspend the call of the Senate. Carried.

Senator Tracy again moved a call of the Senate. Call sustained.

Absent—Senator Hall.

Senator Flanagan in the chair.

Senator Shelley moved a suspension of the rules to take up House bill No. 474, "An act to incorporate the Hearne, Belton and Northwestern Railroad Company and aid in constructing the same."

Senator Tracy moved a call of the Senate. Call sustained.

Absent—Senator Hall.

On motion of Senator Franks, the rules were suspended to take up Senate bill No. 369, "An act to ascertain the amounts due the teachers of the public free schools of this State prior to the first day of March, 1873, and to provide for the payment of the same."

The bill was read second time and ordered engrossed; rules further suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Fountain, Franks, Henry, King, Latimer, Pyle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick and Word—24.

Not voting—Senators Gaines, Hall, Rawson, Randle, Tracy and Mr. President.

On motion of Senator Ball the rules were suspended to take up House bill No. 227, "An act to incorporate the town of Denton."

The bill was read second time and the amendments reported by the committee adopted.

On motion of Senator Ball, the rules were suspended, the bill read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Dohoney, Evans, Ford, Flanagan, Franks, Henry, King, Latimer, Pyle, Randle, Ruby, Saylor, Shelley, Swift, Tendick, Tracy and Word—21.

Not voting—Senators Cole, Dillard, Finlay, Fountain, Gaines, Hall, Rawson, Sayers and Mr. President.

On motion of Senator Baker, the rules were suspended to take up House bill No. 904, "An act to amend section eight of an act entitled an act to incorporate the town of Seguin, in Guadalupe county." The bill was read second time and passed to a third reading.

On motion of Senator Baker, the rules were further suspended, the bill read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Henry, King, Latimer, Pyle, Rawson, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—22.

Not voting—Senators Ball, Broughton, Cole, Franks, Gaines, Hall, Randle and Mr. President.

On motion of Senator Fountain, the rules were suspended to take up House bill No. 574, "An act in relation to the Corpus Christi Ship Canal." The bill was read second time and passed to a third reading.

On motion of Senator Fountain, the rules were further suspended, the bill read third time and passed by the following vote:

Yeas—Senators Avinger, Ball, Broughton, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Henry, King, Latimer, Pyle, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—24.

Not voting—Senators Baker, Cole, Gaines, Hall, Rawson and Mr. President.

On motion of Senator Dohoney, the Senate went into executive session.

In the Senate.

On motion of Senator Pyle, the secretary of the Senate was instructed to inform his Excellency the Governor that the Senate had refused to advise and consent to the appointment of John L. Lovejoy, Judge of the Eighth Judicial District.

On motion of Senator Baker, the Senate adjourned to 4 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment. Roll called; quorum present.

Absent—Senators Broughton, Hall, King, Randle, Ruby, Saylor, Swift, Tendick and Tracy.

On motion of Senator Tracy, the rules were suspended and House bill No. 169, incorporating the town of Willis, in Montgomery county, with amendments by the committee, taken up, amendments adopted, bill read second time and passed to third reading; rules suspended, the bill read third time and passed.

The question upon which a call of the Senate was ordered was taken up, viz., a bill prescribing the times of holding general elections in this State.

Senator Sayers moved the previous question.

On motion of Senator Tracy, a call of the Senate was ordered.

Absent—Senators Broughton, Hall, King, Saylor and Swift.

On motion of Senator Franks, absent Senators hereafter when brought in should be called upon to answer before the bar of the Senate to show cause why they were absent.

On motion of Senator Pyle, the rules were suspended and House bill No. 924, "An act to reincorporate the city of Corsicana," was taken up, read second time and passed to third reading; rules further suspended, the bill read third time and passed.

The sergeant-at-arms brought in Senator Swift, who gave his excuse for being absent from the Senate, and was excused by the following vote:

Yeas—Senators Avinger, Baker, Cole, Finlay, Fountain, Franks, Gaines, Latimer, Rawson, Randle, Saylor, Sayers, Shelley, Tendick, Tracy, Word and Mr. President—17.

Nays—Senators Dillard, Dohoney, Evans and Flanagan—4.

Senator Ruby, for the Committee on Engrossed Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Engrossed Bills have examined the following bills, and find them correctly engrossed:

Senate bill No., "An act making appropriations to supply the deficiencies in the appropriations for the years 1870, 1871 and 1872, for the support of the State Government."

Senate amendments to House bill No. 483, "An act to aid in the construction of the railroad of the Gulf, Western Texas and Pacific Railway Company."

G. T. RUBY, for Committee.

On motion of Senator Saylor, the rule was suspended and Senate bill No. 86, "An act for the erection of the Agricultural and Mechanical College of Texas," was taken up, with report of Committee on Education recommending a substitute for the same.

Senator Rawson moved to print one hundred copies of the bill and make it a special order for 11 o'clock tomorrow. Lost.

Substitute adopted and read second time.

A message was received from the House informing the Senate that the House had passed the following bills:

Senate bill No. 79, "An act to provide for the ascertainment and payment of the liabilities of Washington county."

Senate bill No. 75, "An act to authorize the County Court of Washington county to issue bonds for the purpose of funding the indebtedness of said county, contracted for the building of a jail, and to provide for their payment."

Senator Shelley offered this amendment to the Agricultural and Mechanical College bill: Amend section nine by striking out all after the word "thereto," in line six, down to and including the word "land," and insert "and the title to the land in the purchaser shall be subject to be declared forfeited by a court of competent jurisdiction." Adopted and bill ordered engrossed; rule suspended, bill read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dohoney, Evans, Ford, Finlay, Fountain, Franks, Henry, King, Latimer, Pyle, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick and Tracy—22.

Nays—Senators Gaines, Rawson and Word—3.

Not voting—Senators Broughton, Dillard, Flanagan, Hall and Mr. President.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

Sir: Your Committee on Enrolled Bills have carefully examined and compared the following bill, viz.:

Senate bill No. 30, "An act to incorporate the Sherman, Wichita and Pan Handle Railway, and to grant land to aid in the construction thereof."

And find the same correctly enrolled.

H. R. LATIMER, Chairman.

On motion of Senator Ruby the rules were suspended, and House bill No. 742, amendatory of "An act to incorporate the Galveston Agricultural and Horticultural Association," was taken up, read second time and passed to third reading; rules suspended, read third time and passed.

On motion of Senator Randle the rules were suspended to take up Senate bill No. 362, "An act to authorize the lessees of the State Penitentiary to delay the payment of certain amounts of money to become due the State until the expiration of their lease." The bill was read second time.

Senator Swift moved to amend section two, line ten, after the word "dollars," by inserting "with interest at seven per cent. per annum on the amount due at the end of each fiscal year." Adopted.

The bill was ordered engrossed.

On motion of Senator Randle the rules were further suspended, the bill read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Gaines, King, Latimer, Pyle, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—23.

Nays—Senators Dillard, Dohoney, Henry and Rawson—4.

Not voting—Senators Broughton, Hall and Mr. President.

Senator Finlay moved to suspend the call of the Senate. Carried by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Franks, Henry, King, Latimer, Pyle, Sayers, Shelley, Swift, Tendick, Word and Mr. President—19.

Nays—Senators Ford, Fountain, Gaines, Rawson, Randle, Ruby, Saylor and Tracy—8.

Not voting—Senators Baker, Broughton and Hall.

Senator Fountain moved a call of the Senate.

Call sustained.

Absent—Senators Broughton and Hall.

Senator Tracy moved that the Senate adjourn to 9 o'clock A. M. to-morrow. Lest by the following vote:

Yeas—Senators Baker, Ford, Fountain, Gaines, Rawson, Randle, Ruby, Saylor and Tracy—9.

Nays—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Franks, Henry, King, Latimer, Sayers, Shelley, Swift, Tendick, Word and Mr. President—18.

Not voting—Senators Broughton, Hall and Pyle.

Senator Finlay moved to excuse Senators Hall and Broughton, and upon that motion moved the previous question, which was seconded.

Senator Fountain moved to postpone the whole matter and make it the special order for 11 o'clock A. M. to-morrow.

The chair ruled the motion out of order, the main question having been moved and seconded.

Senator Fountain appealed from the decision of the chair, and the Senate sustained the ruling by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Franks, Henry, King, Latimer, Sayers, Shelley, Swift and Word—16.

Nays—Senators Baker, Ford, Fountain, Gaines, Rawson, Randle, Ruby, Saylor, Tendick and Tracy—10.

Not voting—Senators Broughton, Hall and Mr. President.

The main question, viz., the adoption of the motion offered by Senator Flanagan, that the Senate recede from its first amendment to the election bill, was then ordered by the following vote:

Yeas—Senators Avinger, Ball, Dillard, Dohoney, Evans, Finlay, Flanagan, Henry, King, Latimer, Sayers, Shelley, Swift, Word and Mr. President—15.

Nays—Senators Baker, Cole, Ford, Fountain, Franks, Gaines, Pyle, Rawson, Randle, Ruby, Saylor, Tendick and Tracy—13.

Not voting—Senators Broughton and Hall.

Senator Finlay moved to excuse Senators Broughton and Hall.

On motion of Senator Flanagan a division of the question was had.

The question then being to excuse Senator Hall, the same was put and carried by the following vote:

Yeas—Senators Avinger, Ball, Dillard, Dohoney, Evans, Finlay, Flanagan, Franks, Henry, King, Latimer, Sayers, Shelley, Swift, Word and Mr. President—16.

Nays—Senators Baker, Cole, Ford, Fountain, Gaines, Pyle, Rawson, Randle, Ruby, Saylor, Tendick and Tracy—12.

Not voting—Senator Broughton.

Senator Flanagan having agreed to pair off with Senator Broughton, the question as to whether he should be excused was not put.

The main question was then put, and the Senate receded from its amendment to the bill by the following vote:

Yeas—Senators Avinger, Ball, Dillard, Dohoney, Evans, Finlay, Henry, King, Latimer, Pyle, Sayers, Shelley, Swift, Tendick, Tracy, Word and Mr. President—17.

Nays—Senators Baker, Cole, Ford, Fountain, Franks, Gaines, Rawson, Randle, Ruby and Saylor—10.

Senator Flanagan being paired off with Senator Broughton, did not vote, otherwise would have voted in the affirmative.

Senator Flanagan moved to reconsider the vote just taken and to lay that motion on the table. Carried.

Senators Ruby and Gaines were granted leave of absence for to-morrow.

By leave, Senator Saylor introduced a bill to be entitled "An act to amend an act to incorporate the town of Millcan, in Brazos county, approved March 13, 1871."

The bill was read first time and not referred.

Senator Baker moved to adjourn to 9 o'clock A. M. to-morrow. Lost by the following vote:

Yeas—Senators Avinger, Baker, Ball, Ford, Finlay, Flanagan, Franks, Gaines, Rawson and Tracy—10.

Nays—Senators Cole, Dillard, Dohoney, Evans, Henry, King, Saylor, Shelley, Swift, Tendick, Word and Mr. President—12.

Not voting—Senators Fountain, Latimer, Pyle, Randle, Ruby and Sayers.

On motion of Senator Tendick, the rules were suspended to take up Senate bill No. 127, "An act to amend the twenty-second section of an act prescribing the times of holding the district courts in the several judicial districts."

The bill was read second time and ordered engrossed.
On motion of Senator Tendick, the rules were further suspended, the bill read third time and passed.
On motion of Senator Flanagan, the Senate adjourned till 9 o'clock A. M. to-morrow.

SENATE CHAMBER,
AUSTIN, TEXAS, May 24, 1873. }

Senate met pursuant to adjournment. Roll called :
quorum present.

Absent—Senators Broughton, Dillard, Flanagan, Saylor and Tracy.

Prayer by the Rev. J. L. Riggs.

On motion of Senator Fountain, the reading of the journal of yesterday was dispensed with.

Journal corrected.

Senator Shelley, chairman of the Committee on Constitutional Amendments, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Constitutional Amendments, to whom was committed the Senate joint resolution proposing an amendment to the twelfth article of the State Constitution, by striking out of said article the forty-sixth section thereof, have considered the same, and instruct me to report the accompanying substitute therefor, and to recommend its adoption and passage,

N. G. SHELLEY, Chairman.

Senator Flanagan was granted leave of absence for one week from to-day.

Senator Sayers was granted leave of absence for the evening.

Senator Ford submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your special committee, to whom was referred the veto message on House bill No. 794, entitled "An act to amend section seven of an act entitled an act to incorporate the city of Waco, approved April 26, 1871," after carefully considering the original act incorporating the city of Waco, find that clause thirty-eight of section seven of said act is exactly the same as the thirty-eighth clause of the bill amending section seven of that act to